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Employment Standards Administration

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Field Operations Handbook (FOH)

The Field Operations Handbook (FOH) is an operations manual that provides Wage and Hour Division (WHD) investigators and staff with interpretations of statutory provisions, procedures for conducting investigations, and general administrative guidance. The FOH was developed by the WHD under the general authority to administer laws that the agency is charged with enforcing. The FOH reflects policies established through changes in legislation, regulations, court decisions, and the decisions and opinions of the WHD Administrator. Further, the FOH is not used as a device for establishing interpretative policy.

The Department of Labor (DOL) is providing the information in this handbook as a public service. This information and other related materials are presented to provide public access to information regarding DOL programs. It is important to note that although the information within the handbook is timely and accurate, there will often be a delay between the official publication of the materials and the modification of these pages. Therefore, no express or implied guarantees are indicated. The Federal Register and the Code of Federal Regulations remain the office resources for regulatory information published by the DOL. Every effort will be made to address all errors brought to the attention of FOH staff.

- [Chapter 10 \(PDF 1.9MB\)](#): FLSA Coverage-Employment Relationship, Statutory Exclusions, Geographical Limits
- [Chapter 11 \(PDF 3.1MB\)](#): Individual Coverage - FLSA
- [Chapter 12 \(PDF 1.8MB\)](#): Enterprise Coverage - FLSA
- [Chapter 13 \(PDF 0.7MB\)](#): Coverage of the Public Contracts Act
- [Chapter 14 \(PDF 1.6MB\)](#): The McNamara-O'Hara Service Contract Act
- [Chapter 15 \(PDF 3.8MB\)](#): Davis-Bacon and Related Acts and Contract Work Hours and Safety Standards Act
- [Chapter 16 \(PDF 1.1MB\)](#): Title III - Consumer Credit Protection Act (Wage Garnishment)
- [Chapter 20 \(PDF 1.3MB\)](#): Agriculture Related and Seasonal Exemptions
- [Chapter 21 \(PDF 3.0MB\)](#): Retail or Service Establishment Exemptions From Secs 6 and 7
- [Chapter 22 \(PDF 1.7MB\)](#): Executive, Administrative, Professional, and Outside Salesperson Exemptions-FLSA Sec 13(a)(1)
 - (Chapter 22 is currently being revised to reflect the updated regulation. Compliance assistance materials may be found at: <http://www.dol.gov/esa/regs/compliance/whd/fairpay/main.htm>)
- [Chapter 23 \(PDF 0.6MB\)](#): Newspaper and Other Communication Exemptions
- [Chapter 24 \(PDF 2.4MB\)](#): Transportation Exemptions
- [Chapter 25 \(PDF 1.7MB\)](#): Other Exemptions
- [Chapter 30 \(PDF 2.7MB\)](#): Records, Minimum Wage, and Payment of Wages
- [Chapter 31 \(PDF 1.4MB\)](#): Hours Worked
- [Chapter 32 \(PDF 3.4MB\)](#): Overtime
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- (3) Provides an educational program for which it normally awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.

12g12 Institutions for the residential care of emotionally disturbed persons.

For enforcement purposes, a private institution for the residential care of emotionally disturbed persons would come within the coverage of Sec 3(s)(5) of the Act if more than 50% of its residents have been admitted by a qualified physician, psychiatrist, or psychologist. For purposes of the 50% test, the term "admitted" includes evaluations of mental or emotional disturbance by a qualified physician, psychiatrist, or psychologist either subsequent to admission to the institution or preceding admission and being the cause for referral.

12g13 Driving schools.

Establishments engaged as a business in instructing and teaching motor vehicle driving are not bona fide educational establishments or institutions for purposes of Sec 3(s)(5) or Reg 541.215.

12g14 "Community living centers" and "halfway houses" for retarded persons.

For enforcement purposes, a private institution for mentally retarded persons, sometimes called a "community living center" or a "halfway house", would come within the coverage of Sec 3(s)(5) of the Act, if more than 50% of its residents have an IQ of 69 or less as determined on the basis of a valid test administered by a qualified professional, and a reasonable degree of "care" is being provided. An IQ of 69 or below is considered "mentally defective". "Care" may include such services as waking up residents in the morning to see that they get breakfast in time to leave for work, picking some up at night after work, special counselling, instruction in money management and health matters and generally keeping an eye on them and listening to problems. (See also FOH 12g02 and 12g12.)

12g15 "Care" of the aged and infirm.

- (a) Many establishments variously referred to as "retirement hotels", "retirement apartments", "homes for . . .", "senior citizens retirement homes" and the like provide residences and other services for older persons. In order to determine whether such an establishment may qualify as an "institution primarily engaged in the care of the . . . aged . . .", one of the key questions is whether "care" is provided.
- (b) The word "care" as it is used in Sec 3(s)(5) is subject to a broad interpretation and encompasses routine custodial services and attention. Institutions which care for the aged, (as well as other institutions which care for the sick, or for the mentally ill or defective), can vary from extremely well-serviced establishments to those of a custodial type of servicing. Where an establishment must take full responsibility of any nursing home or hospital care a resident requires, this constitutes "care" of the resident. However, it does not necessarily follow that to be a home for the aged, the establishment must be a nursing home or otherwise medically oriented. If the aged occupants, in addition to receiving food, shelter, and laundry, must be closely watched because

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their senile condition necessitates their being supervised and guided, even though they receive no medical attention, they may, depending upon all the facts, be receiving "care" for the aged within the meaning of Sec 3(s)(5). (See also FOH 12g02, 12g12, and 12g14.)

- (c) On the other hand, some apartment hotels and retirement homes that cater to retirees and other elderly persons who are completely ambulatory and in reasonably good health are not considered institutions primarily engaged in the care of the aged who reside on the premises. Even though such an establishment may furnish certain special services, as for example, emergency pull bells in the bathroom connected to a public address system in the office and a registered nurse on duty for an hour each day to aid tenants if they need help in taking required medication, these services may, depending upon all the facts, be just a part of a deluxe service furnished by the establishment and such establishments would not be covered under Sec 3(s)(5).

12g16 Day care homes--family owned and operated.

Certain day care homes are not covered on an enterprise basis because they are family owned and operated (see last sentence of Sec 3(s)). Typically a mother who is already caring for her own children will care for other parents' children in her residence without the aid of any regular employees other than her immediate family. Such residences are distinct establishments for purposes of the Act and are excluded from enterprise coverage by the last sentence of Sec 3(s) notwithstanding that such homes may be in some way affiliated with a covered enterprise.

12g17 Maternity homes for unwed mothers.

Private nonprofit institutions providing residential care for unwed mothers are not covered by the enterprise provisions of the FLSA, provided that the maternity home is not operated in conjunction with a hospital, covered institution, or school within the meaning of Secs 3(r) and 3(s) of the Act. There may be employees covered on an "individual" basis, however.

12g18 Institutions for neglected and dependent children.

Private nonprofit institutions providing care for neglected and dependent children are not covered by the enterprise provisions of the FLSA, provided that such institution is not operated in conjunction with a hospital, covered institution, or school within the meaning of Secs 3(r) and 3(s) of the Act. However, there may be employees who are covered on an "individual" basis.